

Notice of Allowability

Application No.

09/849,010

Examiner

Fred Ferris

Applicant(s)

KLEVANS, RICHARD L.

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12 July 2005.
2. ☒ The allowed claim(s) is/are 1-5 and 9-13.
3. ☒ The drawings filed on 23 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. *Claims 1-13 have been presented for examination based on applicants after final amendment filed on 12 July 2005. Applicants have now cancelled claims 6-8. Amended claims 1-5 and 9-13 were previously allowed over the prior art of record.*

Response to Arguments

2. *Applicant's arguments filed 12 July 2005 have been fully considered and found to be persuasive. The case is now in condition for allowance in view of applicant's cancellation of claims 6-8. Claims 1-5 and 9-13 were previously allowed.*

Allowable Subject Matter

3. *Claims 1-5 and 9-13 have now been allowed over the prior art of record.*

The following is an examiner's statement of reasons for allowance:

Applicants are disclosing system for simulating hardware on which software is to be tested inclusive of a hardware interface intercepting/redirecting communications, a network simulation system in communication with hardware interface, a user interface for entering commands for creating simulated network, a network simulator for simulating functionality of simulated network, and a simulator library providing application programmers interface.

While these elements are individually disclosed in the prior art, the prior art of record does not meet the conditions as suggested in MPEP section 2132, namely:

*"The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an **ipsissimis verbis** test, i.e., identity of terminology is not required. **In re Bond**, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."*

In particular, the prior art of record does not disclose the specific arrangement of elements including an emulator stub communicating with a hardware interface for translating the communications between a network simulator and hardware interface, and an event handler for directing the communications received by the emulator stub and returned to the emulator stub, as now recited in the independent claims 1 and 9 respectively.

The closest prior art uncovered during examination teaches certain limitations of the claimed invention as follows:

- "Network Simulations with OPNET", X. Chang: Teaches the OPNET Modeler network simulator for simulating and defining functionality of simulated network and developing a simulated network model including a Network Editor, Node Editor, Process Editor, Simulation & Debugging tool, Probe editor, Analysis tool, Filter tool, Animation tool, and a Model Library but does not explicitly teach an arrangement of elements including an emulator stub communicating with a hardware interface for translating the communications between a network simulator and hardware interface, and an event

handler for directing the communications received by the emulator stub and returned to the emulator stub.

- U.S. Patent 6,571,356 issued to Mehr et al: Teaches a hardware interface used in network simulation having component ports for carrying out various emulator programming and data transfer tasks and communicating with software application links but again does not explicitly teach an arrangement of elements including an emulator stub communicating with a hardware interface for translating the communications between a network simulator and hardware interface, and an event handler for directing the communications received by the emulator stub and returned to the emulator stub.

The features noted above relating to the specific arrangement of hardware simulation system elements including an emulator stub communicating with a hardware interface for translating the communications between a network simulator and hardware interface, and an event handler for directing the communications received by the emulator stub and returned to the emulator stub, as now recited in the independent claims 1 and 9 renders the claimed invention non-obvious over the prior art of record. Further, the "means for" language of claim 9 is given deference in view of *In re Donaldson* and interpreted in view of 35 U.S.C. § 112 paragraph 6. The "means for" language and the limitations related thereto is therefore interpreted within the scope of enablement as provided within the relative embodiment provided within applicant's specification as follows:

- *means for intercepting and redirecting communications: Fig. 2, pp. 8-9*
- *means for entering commands for creating a simulated network: pp.13-14*
- *network simulator means for simulating functionality: Figs. 1-3, pp. 7-16*
- *simulator library means for providing application interface: Figs. 1-4, pp. 6-13*
- *emulator stub means for translating communications: Figs. 1-4, pp.7, 8-16, 18*
- *event handler means for directing communications: Figs. 1-3 , pp. 10-12*

Dependent claims 2-5, and 10-13 are deemed allowable as being dependent from independent claims 1 and 9 respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 571-272-3700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean Homere can be reached at 571-272-3780.*

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Art Unit 2128